IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-665

ALAN ERNEST, Next Friend of Unborn Child Roe, Etc.,
Petitioner

vs.

JAMES E. CARTER Jr., President of the United States,
Et Al.

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

PETITIONER'S REPLY TO RESPONDENT'S MEMORANDUM IN OPPOSITION

ALAN ERNEST
5713 Harwich Ct. #232
Alexandria, Va 22311

The Petitioner Pro Se

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1976

No. 76-665

ALAN ERNEST, Next Friend of Unborn Child Roe, Etc.,
Petitioner

vs.

JAMES E. CARTER Jr., President of the United States,
Et Al.

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

PETITIONER'S REPLY TO RESPONDENT'S MEMORANDUM IN OPPOSITION

The respondents presented four objections for why the petition should not be granted (petitioner waives any objection that the opposition was filed almost two weeks late without prior application for extension):

1. "This case does not present the extraordinary circumstances justifying certiorari before judgment under Rule 20 of this Court's rules." Opposition at 2. The respondents cited the Nixon case as properly extraordinary. The next friend submits to all impartial people that the charge that the Supreme Court has unconstitutionally exterminated millions of lives by false evidence compares to the whole of Watergate as World War II might compare to a drunk and disorderly.

2. "Petitioner . . . lacks standing since he cannot demonstrate that he suffers any injury in fact." Opposition at 2. The respondents assume that a next friend or guardian must suffer an injury in fact, as well as the infant or incompetent person represented. The single case cited as authority for this, Simon v Eastern Kentucky Welfare Rights Organization, had nothing at all to do with next friends or guardians. Rule 17(c), Federal Rules of Civil Procedure expressly allows guardians or next friends to sue or defend, which is obviously the only way that these classes of helpless persons can assert their legal rights in a court.

3. "In addition, the named defendants . . . have no functions with respect to the relief petitioner seeks." Opposition at 2. The United States Attorney for the District of Columbia is charged by law with enforcing the D.C. Abortion statute, 22 D.C. Code 201. See 23 D.C. Code 101. The complaint demanded that the court order the United States Attorney to enforce that abortion statute and cease following Roe v Wade.

4. "Moreover, petitioner's claims are without merit." Opposition at 2. Now, exactly, if defenders of Roe v Wade wish to prevail, they must prove the charge that Roe v Wade is based on false evidence to be "without merit."

Since the whole case turns on this very point, the assertion deserves special scrutiny. The statement that the "claims are without merit" is peremptorily asserted as if it were indisputable fact. Unfortunately, this conclusion upon which the whole case depends, is unsupported by any documentation whatsoever,- not so much as one single attempt to prove one single fact or authority in Exhibit A to be "without merit." Thus the Solicitor General offers his veracity as proof for this assertion.

Of course, the Solicitor General could have

avoided this difficulty about his veracity by basing this objection on cited authority as next friend did in Exhibit A. Then the contest would have turned into the normal legal channels of testing and cross-examining authorities.

Exhibit A shows that the next friend has essentially taken up where Mr. Justice White and Mr. Justice Rehnquist left off in their Roe v Wade dissents. Does the Solicitor General assert his veracity that these dissents are "without merit?" Exhibit A at 1-30 complements Mr. Justice Rehnquist's dissent by documenting that the Supreme Court fabricated false evidence to prove that the 19th century abortion statutes were not intended to protect the lives of unborn persons. Does the Solicitor General offer his veracity as proof that this documentation is "without merit?" Exhibit A* at 30-32 complements Mr. Justice White's dissent about reasonable men reasonably differing. It shows that Chief Justice John Marshall, acknowledging the limits on the Supreme Court's power, held that the Supreme Court must give the Constitution the construction "contemplated by the framers;" that the Court may not create exceptions to express and universal terms (such as "any person") unless "all mankind would, without hesitation, unite in rejecting the application," and the Court can demonstrate that had the particular case been suggested to the framers, "the language would have been varied, as to exclude it;" and on top of this, that "in no doubtful case" would the Supreme Court nullify legislation. Exhibit A at 30-32 traces Chief Justice John Marshall's limits on the Court's power through one and a half centuries of Supreme Court holdings, the Constitution itself, The Federalist Papers, and into the Federal Convention of 1787. Does the Solicitor General pledge his veracity that all this authority on the limit of the Supreme Court's power is "without merit?"

If the defenders of Roe v Wade wish to disprove the charge that Roe v Wade is based on false

evidence, they must prove the charge to be "without merit." It needs no authority to establish that if reasonable people can reasonably believe that the Supreme Court has fabricated false evidence to rule millions of persons out of the human race as inferiors so that they may be exterminated for convenience, then Roe v Wade must be overruled. However, next friend submits that Exhibit A is so conclusive, that reasonable people can find, beyond a doubt based on reason, that the Supreme Court could not have reached its conclusion in Roe v Wade but for false factual assertions.

The Court surely understands that the only way that Exhibit A can be shown to be "without merit" is not by naked assertions supported by no evidence whatsoever, ostensibly based on nothing more than closing the eyes and refusing to see, but only by the same careful, detailed and authoritative manner that Exhibit A proves indispensable parts of Roe v Wade to be "without merit." Is is self-evident that this newly discovered evidence in Exhibit A* must be given a full and fair hearing before the Supreme Court of the United States.

Alan Ernest

The Petitioner Pro Se

*An Amended Exhibit A has been filed in the clerk's office that adds new authority at p. 31.2.